IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WA.No. 1304 of 2007()

AGAINST THE ORDER IN WPC.5976/2007 DATED 4.4.2007

APPELLANT: RESPONDENTS IN WP:

1. THE DIVISIONAL FOREST OFFICER,
NILAMBUR.

2. THE CHIEF CONSERVATOR OF FORESTS
(NORTHERN REGION), FOREST HEAD QUARTERS,
KOZHIKODE.

BY SPECIAL GOVERNMENT PLEADER FOR FOREST
SRI.RENJITH THAMPAN

RESPONDENTS: PETITIONERS:

1. REMADEVI PATHIYIL,
PALAKKAPPARAMBIL HOUSE, ARUVACODE,
NILAMBUR P.O., MALAPPURAM DISTRICT.

2. K.P.UNNEERANKUTTY,
KONDOTTUPARACKAL HOUSE, KARIAVATTOM,
MANNORMALA P.O., VIA PATTIKKAD, MALAPPURAM.

BY ADV. SRI.ASHOK.M.CHERIAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1304 OF 2007

Dated this the 7th June, 2007

JUDGMENT

H.L.DATTU, C.J.

This appeal is directed against the order passed by the learned single Judge in W.P.(C) No.5976 of 2007 dated 4th April, 2007.

2. The facts in nuts are:

Petitioners are owners of property in Sy.Nos.5/2 and 5/1 of Nilambur Village which forms part of a large extent which lies between the Kuthirappuzha and the reserved forest at Nilambur in Malappuram District. In the writ petition filed, the petitioners had pleaded that the only access to their land from the Manjeri-Nilambur road is through a ghat road of about 300 metres through the forest. That allegation of the petitioners was disputed by the respondents – forest officials.

3. The petitioners had also stated in the writ petition that for the purpose of cultivation of the land, they have to carry agricultural accessories, manure etc. and if they are prevented from reaching their

land through the ghat road, their agricultural activities could be affected.

4. The learned Judge, taking into consideration the judgment passed in W.P.(C) No.22781 of 2006 dated 16th November 2006 by a Division Bench of this Court, has permitted the petitioners to make use of the ghat road for their agricultural activities till the respondents construct a new road. Aggrieved by the orders and directions issued by this Court, respondents in the writ petition have filed this appeal.

5. Learned counsel appearing for the appellants would submit that the appellants are making all efforts to file a review petition to review the orders passed by this Court in W.P.(C) No.22781 of 2006 dated 16th November, 2006.

6. Learned single Judge is of the opinion that if one person is already permitted to make use of the ghat road to enter into his land, the same treatment requires to be given to the other person who is also having land in Manjeri-Nilambur road. Learned single Judge has applied the principles of Article 14 of the Constitution to give

relief to the petitioners. In view of the above, we do not see any error in the order passed by the learned single Judge.

6. We make it clear that if the appellants succeed in the review petition that may be filed in W.P.(C) No.22781 of 2006, that order would also bind by the respondents in this appeal.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/